

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE A 18 MAY 2020</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 18 MAY 2020 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Philip Davis in the Chair;

Councillors Mary Locke and Bob Beauchamp.

### **ALSO PRESENT**

Bhapinder Nhandra – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Townshend – Committee Services  
Phil Wright – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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### **NOTICE OF RECORDING/WEBCAST**

- 1/180520 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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2/180520 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

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### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/180520 No apologies were submitted.
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**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – BROOKLYN NEWS,  
3 BIRDBROOK ROAD, BIRMINGHAM, B44 8RA**

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

**On Behalf of the Applicant**

Naseem Shamas – Trading Standards

**Those Making Representations**

PC Abdool Rohomon – West Midlands Police (WMP)

**On behalf of the Premises Licence Holder**

Rob Edge – Agent – Licence Leader

The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhapinder Nandhra to outline the report.

Mr Edge explained that the licence holder would not be 'attending' the virtual hearing as he was suffering from anxiety due to the review process. Additionally, the licence holder was not confident using IT and therefore Mr Edge would be representing him at the meeting.

Afterwards, the Chairman invited the representative of TS to outline the review application. At which stage Ms Shamas made the following points: -

- a) That TS carried out a test purchase exercise at the premises whereby two female volunteers, who were 14yo and 15yo, were able to purchase 2 bottles of WKD Blue. At no point were the volunteers asked for ID.
- b) Once the volunteers left the premises the TS officers went into the shop. They identified the lady who sold the alcohol to the females as Mr Singh. They advised him that he had sold alcohol to persons under the age of 18 and that it was an offence under the Licensing Act 2003. A trader notice was issued, which he signed and was given a copy.
- c) Previous advice had been issued to the premises in September 2011 and a visit was also carried out in May 2013 where an information pack on age restricted products was issued.
- d) There was no recent complaints, however, the sale of alcohol to minors was a serious offence which had serious implications for young persons, such as:

health risks, making them more vulnerable, putting them in compromising situations.

- e) There was no excuse for the sale, it should not have happened.
- f) The PLH and DPS should have known better.
- g) The current licence had no specific conditions for preventing age restricted sales and was a conversion granted in 2005.
- h) The Committee should consider all options open to them, but they could include more robust conditions such as a challenge 25 policy, staff training, proof of age scheme, refusals register and CCTV.

Members asked questions and Ms Shamas made the following points: -

- a) That the test purchase was carried out at 1450 hours in half term week.
- b) That she wasn't sure whether there were signs up at the premises regarding under age sales.

The Chairman invited PC Rohomon, WMP to make his representation at which stage PC Rohomon made the following points: -

- a) That Mr Singh had been a PLH and DPS even when the older Act was in place. That means he would have done the course and at that time people were required to go to court to get the licence and at court one of the questions asked was 'who should you not serve to', for which the answer was young persons under 18 and vulnerable persons.
- b) The fact Mr Singh had not done the new Licensing Act 2003 course did not mean he would not have been aware of age restricted products. There had also been advice given to him on two separate occasions in 2011 and 2013. He had also received reminders, but PC Rohomon stuck to the point that Mr Singh should not need reminders – it was his responsibility to uphold the licensing objectives.
- c) Mr Singh didn't even ask the female volunteers how old they were.
- d) That the severity of underage sales was indicated within the Section 182 Guidance at paragraph 11.27. It was extremely serious and that was due to the impact it had on under 18s.
- e) PC Rohomon went through the documents submitted by WMP, in particular the information from the NHS, Barnardos, and Drink Aware. The main points highlighted were that alcohol had serious mental, physical and emotional impacts on children and young people. Additionally, that young people were deemed vulnerable when consuming alcohol and it could lead to serious issues.

- f) The conditions such as CCTV, training and challenge 25 policy would not have stopped the sale from happening as it was already stuff that the licence holder should have been doing in order to promote the licensing objectives. There was also no evidence that he would comply with conditions if they were imposed.
- g) The test purchase failure was serious and the options for the Committee to consider should be along the lines of suspension or revocation.

At this stage the meeting was briefly paused, and all parties muted their microphones. Once everyone was ready to proceed the Chairman invited all parties to keep their microphones muted apart from those who wished to speak.

Mr Edge was invited to make his representation on behalf of the licence holder and as such, Mr Edge made the following points: -

- a) That Mr Singh sent his apologies as he was not doing too well and was suffering from anxiety. However, Mr Edge had been instructed to act entirely on Mr Singh's behalf. Mr Singh is the PLH and DPS.
- b) That Mr Singh had admitted to his mistakes, but he had never knowingly broken the law.
- c) Mr Singh had requested that Mr Edge put forward a 'sweep' of conditions which had previously been offered in mediation with TS and WMP. He also offered additional staff training.
- d) Further, a voluntary 'lockdown' of the premises was also offered.
- e) The premises would be compliant and uphold the licensing objectives morning forward.
- f) The closure of the premises would allow the training to take place.
- g) The comprehensive conditions, including staff training, incident log and refusals book would ensure that the premises got back on track.

In answer to Members questions Mr Edge made the following points: -

- a) That CCTV was included in the proposed conditions and it would cover a 31-day period covering the external frontage of the premises and would be available to responsible authorities upon request.
- b) The DPS would be there most of the time that the premises was open.
- c) The PLH realises that a comprehensive training package needs to be delivered to all staff.
- d) There were already challenge 25 posters in the premises. Mr Singh informed Mr Edge that he was aware of the challenge 25 policy and believed the mistake was made due to a lapse in concentration.

- e) There were no other incidents of underage sales; no complaints or issues.
- f) That the training needed to be done twice a year as things often changed.
- g) The training needed updating twice yearly and records to be kept and available for inspection upon request.
- h) That the visits by the responsible authorities were advisory visits where they issued licensing packs to the premises.
- i) That he thought the premises had 1 or 2 cameras installed but he wasn't sure if they were working.

In summing up PC Rohomon, on behalf of WMP, made the following points: -

- That it was clearly set out in the Section 182 Guidance how serious it is to sell alcohol to persons under the age of 18.
- CCTV would not have stopped the offence happening.
- The CCTV needed to be operational.
- The PLH/DPS had already had training, so he wasn't sure why he needed more. PC Rohomon stated that it made a mockery of the fact he had a personal licence.
- That challenge 25 posters were already being used at the premises, so what use would that be as a condition on the licence.
- There was no evidence of due diligence from the licence holder and there was no evidence of a refusals book.
- The PLH had been given advice from TS.
- He wasn't sure how the measures recommended by Mr Edge would solve any of the issues.
- That the Committee should look at the more severe options available to them in line with the guidance; suspension or revocation.

Ms Shamas did not wish to make a closing submission.

In summing up, Mr Edge on behalf of the PLH, made the following points: -

- That the PLH was sorry for his error and was aware of the seriousness of the offence and given a chance he would turn the business around and promote the licensing objectives.

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- The PLH was employing a consultant to deliver the training and would offer a voluntary closure of the premises whilst that took place. Additionally, the conditions were also offered.
- It was a silly mistake.
- The PLH's intension was to show that they could be a model premises and it would be fully cooperative with the responsible authorities moving forwards.
- The PLH deeply regretted his mistake.
- Revocation was far too severe.
- That although Mr Singh had done a personal licence course, he did need to have retraining on a regular basis.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

4/180520

### **RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by Paramjit Singh in respect of Brooklyn News, 3 Birdbrook Road, Birmingham, B44 8RA upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that the licence be revoked, in order to promote the prevention of crime and disorder, public safety, and protection of children from harm objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns expressed by the responsible authorities, namely the Trading Standards department of the City Council, and West Midlands Police.

Trading Standards had submitted a Report to the Sub-Committee explaining that in February 2020 they had conducted a test purchasing exercise at the Brooklyn News premises. Test purchasing, which is a regular part of Trading Standards' normal work, is carried out to check compliance with the law – namely whether or not a premises is prepared to sell alcohol to a teenager who is visibly under 18 years of age. Trading Standards' records also showed that in 2011 and 2013 the shop had received advisory visits regarding underage sales.

On the day in question, Thursday 20<sup>th</sup> February 2020, two female volunteers were assisting the officers – one a 14 year old, and the other a 15 year old. Upon entering the Brooklyn News premises, at approximately 14.50 hours, a Trading Standards officer stood in the shop and observed as the staff member behind the counter allowed the 15 year old volunteer to purchase two bottles of "WKD Blue", which is an alcopop-style pre-mixed vodka drink of 4% ABV, by selecting it from the shelf, taking it to the counter and paying for it.

The staff member behind the counter who permitted the sale was Mr Paramjit Singh, who is both the licence holder and the designated premises supervisor for the shop. Mr Singh did not ask the 15 year old to show some age-related ID; indeed he did not even ask the volunteer to state her age. After leaving the shop with the volunteers, officers returned to the shop to inform Mr Singh that the underage sale was an offence under the Licensing Act 2003, and that it would be reported. A Trader's Notice was issued.

The Sub-Committee then heard from West Midlands Police, who addressed the Sub-Committee on the impact that underage sales of alcohol have on the licensing objectives. The Sub-Committee found the information provided by the Police in the Report to be useful in explaining the effects of improper sales of alcohol on youngsters, their families and the emergency services. The Sub-Committee agreed with the Police's conclusion, namely that any licensed premises prepared to take such risks with the licensing objectives was failing to uphold the trust placed in them by the City Council. The circumstances of the underage sale did not inspire confidence that the Brooklyn News premises was properly managed, properly staffed, or capable of following the law; even more worryingly, the offence was made more serious by the fact that it was Mr Singh himself who permitted the underage sale – not just a member of staff.

The Sub-Committee then heard from the licence holder, through his representative. The licence holder did not attend the meeting. The Sub-Committee gave careful consideration to the licence holder's submissions, but was not remotely satisfied, given the evidence submitted by the two responsible authorities, that the premises was capable of proper operation.

The suggestion from the premises, namely that the appropriate course was to redraft the conditions such that they were comprehensive, and also to impose a voluntary one-week suspension of the licence, was not sufficient to ensure that the licensing objectives would be properly promoted. The issue was the conduct of Mr Singh, who was both the licence holder and the designated premises supervisor.

Despite having operated for some fifteen years, and having received two advisory visits in the past, he had permitted an underage sale without asking for some form of ID, or even asking the youngster's age. This duty was an elementary part of responsible trading in any off-licence premises. Given that Mr Singh had proven himself incapable of handling sales of alcohol legally, the Sub-Committee gave careful consideration as to whether or not the proposed conditions would be sufficient to enable the shop to operate properly.

Staff training was proposed – but the person who had permitted the sale was Mr Singh himself, who was the licence holder. The adoption of a formal Challenge 25 condition was proposed, but his previous actions did not reassure the Sub-Committee that Mr Singh would necessarily follow it. In any event, as the Police observed, the conditions were a secondary issue. Correct promotion of the licensing objectives would have been sufficient to ensure proper operation. Instead, Mr Singh's poor management and lack of responsibility were

undermining the licensing objectives. This was particularly worrying given that he had some 15 years' experience of trading.

The Sub-Committee was therefore doubtful that improving the conditions was a reliable way forward. It was difficult to have confidence that Mr Singh would properly follow any such revamped conditions; moreover, as the Police pointed out, some aspects (such as the new conditions for CCTV) would do nothing to deal with the problem of underage sales. The recommendation of West Midlands Police was that the Sub-Committee should revoke the licence.

The Sub-Committee noted paragraph 11.23 of the Guidance issued under s182 of the Act, namely that where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

The Sub-Committee was of the view that it was impossible to have any confidence in the premises, given the management style of Mr Singh which had been described by the responsible authorities. Accordingly the only course was to revoke the premises licence.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received and the submissions made at the hearing.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if there is an appeal against the decision, until the appeal is heard.

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*Please note, the meeting ended at 1120.*